

**REMARKS**

The Office Action has been received and carefully considered. Claims 1-12 and 60-105 are pending. Claims 1, 64, 80, 82, 92, 94, 104, and 105 are amended by this response. Support for the amendments may be found at least in Figures 1-4 and at page 2, lines 10-26; page 7, line 16-page 8, line 9; page 9, lines 6-13; page 10, line 27-page 14, line 6; and page 19, lines 1-14 of the specification. Claims 13-59 were previously withdrawn from consideration after a restriction requirement. No new matter has been added.

The Office Action (1) rejects claims 1, 2, 4-9, 11, 12, 64, 65, 67-72, 74, 75, 80, 81, 83-87, 92, 93, 95-99, and 105 under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent Application Publication No. 2002/0056123 to Liwerant *et al.* ("Liwerant"); and (2) rejects claims 60-63, 66, 73, 76-79, 82, 88-91, 94, and 100-104 under 35 U.S.C. § 103(a) as allegedly being obvious over Liwerant in view of Official Notice.

Applicant appreciates the time and courtesy extended by Examiner Joel Fosselman and Supervisory Patent Examiner Tim Henn during an Examiner Interview on September 15, 2009, and in subsequent telephone calls. During the interview, Applicant's representatives discussed with the Examiner draft versions of the amended claims above and, although no agreement was reached, the Examiner indicated that it appears the proposed amendments would overcome the prior art rejections.

In view of the above amendments and based on the reasoning presented below, Applicant respectfully traverses the rejections under 35 U.S.C. § 103 and requests allowance of pending claims 1-12 and 60-105.

**35 U.S.C. § 103 Rejections Based on Liwerant**

The Office Action rejects claims 1, 2, 4-9, 11, 12, 64, 65, 67-72, 74, 75, 80, 81, 83-87, 92, 93, 95-99, and 105 as allegedly being obvious over Liwerant, and rejects claims 60-63, 66, 73, 76-79, 82, 88-91, 94, and 100-104 as allegedly being obvious over Liwerant in view of Official Notice. Although Applicant believes that the currently pending claims sufficiently distinguish Liwerant and other references, Applicant has amended independent claims 1, 64, 80, 92, 104, and 105 in an effort to more clearly recite the claimed features and advance prosecution.

For instance, Applicant has amended claim 1 to recite “delivering user interface code over the Internet for use in an Internet browser, wherein the user interface code is executed through the Internet browser at the user front end and initiates the streaming of audio and video material from a recording device on the user front end to the host back end over the Internet, *the audio and video material streamed as it is being captured with the recording device, not as a complete video file on the user front end*” and “recording the audio and video material on the host back end and *storing the recorded audio and video material as a complete video file.*”

Support for these amendments may be found at least in Figures 1-4 and at page 2, lines 10-26; page 7, line 16-page 8, line 11; page 9, lines 6-13; page 10, line 27-page 14, line 6; and page 19, lines 1-14 of the specification. For example, and without limitation, Figure 1 depicts a system 10 comprising a host back end 60 with recording software 20 and storage memory 30.

The specification discloses at page 2, lines 18-26:

Preferably, the recording software, which is located on the host back end, processes and records audio and video material that originates from the user front end and is streamed to the host back end. The storage memory, which is located on the host back end, then stores the recorded audio and video material. In a preferred embodiment, the user interface to the audio/video stream recording, storage, and delivery system provides a user at the user front end with remote access to a virtual recording room. The user interface further enables the user to record audio and video material streamed from the user front end by activating the

recording software residing on the host back end. Advantageously, this is accomplished without requiring recording functionality on the user front end.

The specification further discloses at page 8, lines 1-11:

The audio/video streams created by the user are stored in storage memory 30, such as on a server, located at the host back end 60. Preferably, the recording software 20 is located on the host back end 60 where it processes and records audio and video material that originates from the user front end 70 and is streamed to the host back end. The storage memory 30 (e.g., a server), which is also preferably located on the host back end 60, then stores the recorded audio and video material. In a preferred embodiment, the recorded audio and video material (e.g., audio/video streams) are stored on audio/video servers at the host back end 60, and thus, do not require that the user have access to local servers or any other type of local storage memory 30. Preferably, the audio/video streams are immediately accessible for review using the system video player in the user interface 50 once the audio/video streams have been recorded.

Liwerant fails to teach or suggest the features of amended claim 1. Liwerant discloses recording a video with a personal computer, saving the entire video as a file in memory, and *then* uploading the entire video file to a hosting site. To explain, a user of the Liwerant system may record 60 seconds of video with a Webcam connected to the user's computer, save the complete video as a file called "movie.avi" in a folder on the user's hard drive, and then upload the file to a hosting site for other users to see. This is completely different from claim 1, which recites delivering user interface code that initiates the streaming of audio and video material from a recording device on the user front end to the host back end, the audio and video material streamed *as it is being captured with the recording device, not as a complete video file on the user front end*. As one example, and without limitation, video being shot with a Webcam can be streamed to a server as video images are being captured with the Webcam. The server records the streamed video images and, when the user is finished taking the video, stores a complete video file, such as "play.swf" (see, for example, page 11, line 28-page 12, line 32 of the specification). Liwerant does not teach or suggest such features.

Liwerant is directed to “methods and systems for sharing video segments over a network.” Liwerant ¶ 5. The disclosed method generally involves (1) receiving a complete video as a file from a user, (2) converting the file into a streaming file format, and (3) making the file available for other users to view in the streaming file format. Liwerant ¶¶ 7-9. Importantly, the entire disclosure of Liwerant is directed to the storage of a complete video “file” on the user’s hard drive, which is then uploaded as a complete video “file” to a hosting site for other users to access. For example:

- ¶ 45: “Turning to FIG. 1A, a sender (‘sender A’) using a computer 10 sends a video segment *in file form* and any associated audio material (or a plurality of still images with their associated audio files) as, for example, an e-mail attachment to an e-mail message from sender A’s computer 10 over a network (such as the Internet or over any other communication medium that sender A’s computer 10 can employ) to a mail server B 21.”
- ¶ 55: “These capabilities include, but are not limited to, performing the functions of: receiving the transmission of a *video file*, optionally with one or more audio files, in e-mail, HTML message, Web page format, or FTP upload to the server computer . . .”
- ¶ 76: “This document makes reference to processing of a *video file* on the user computer before the *video file* is uploaded to a host computer.”
- ¶ 109: “Save and Share button 536, which in the present embodiment activates software modules that convert the current *video file* into a compressed streaming format, upload that converted *file* to the VideoShare web site, and give the user options to distribute that video to other people.”
- ¶ 112: “When the user begins to record a video, the VideoShare Producer 20 software builds a new “Capture Graph” that renders the video stream to both the display window as well as to a temporary *AVI file* on the user’s hard drive.”
- ¶ 113: “The user can also choose to import a pre-existing video, which in one embodiment can be a *file format* selected from the AVI, MPEG, or QuickTime *file formats*, by activating the Import Video button 535.”
- ¶ 135: “The video segment *file* in a format that is compatible with streaming video is then temporarily stored in the user’s computer 16, for example as a *file* on the hard drive of computer 16.”

The figures of Liwerant further demonstrate that video is not streamed from the user's computer as it is being captured with a recording device, but rather saved and uploaded as a complete video file. Figure 1B shows that a video can be uploaded as either an e-mail "attachment" 1250 or a direct upload using an HTML form. In the latter case, the user selects "Browse for File" function 1340. Similarly, Figure 11 shows a "Working Directory" 1180 (*i.e.*, C:\Temp) and a "Queue Directory" 1190 (*i.e.*, c:\Program Files\VideoShare Producer\Publish) where video files can be saved on the user's hard drive. *See also* Fig. 2 ("Produce/Record Video on the Hard Disk"). The Liwerant system also allows the user to "work offline" and record/import video files even when he or she does not have access to the Internet. Liwerant ¶ 167. In that case, streaming as video material is being captured would clearly be impossible as there would be no way to communicate.

The Office Action acknowledges that Liwerant "fails to explicitly disclose delivering user interface code to automatically establish a connection between the user front end and the host back end to initiate streaming of media" (page 3), but states that doing so would have been obvious because Liwerant allegedly discloses in Figure 6 establishing a connection between a user's computer and a host computer (pages 3-4). As shown in Figure 6 of Liwerant, however, the complete video is stored as a file on the user's computer in step 620 prior to being transferred in step 645. *See* Liwerant ¶¶ 124-29 ("This portion of the automated process is denoted by the box 645 labeled "Transfer ('upload') temporarily stored SMF file and JPEG thumbnail identifier to host computer 60.""). Video material is not streamed to a host back end and recorded on the host back end. Further, Liwerant discloses nothing to suggest streaming *as audio and video material is being captured with a recording device*, not as a complete video file on the user front end, or recording such material on a host back end and storing a complete video file. Liwerant

instead discloses a completely different process, *i.e.*, taking a video, saving a complete video file locally, and then uploading the complete video file to a server.

Again, to the extent any streaming at all may occur in the Liwerant system, it is only streaming for playback, not streaming for recording. Once the video file is uploaded to the server in Liwerant, the server makes it available to other users in a streaming format. *See* Liwerant ¶ 74 (“A sharing module 1580 streams the video segment in streaming format to the destination computer in response to a return of the identification tag to the receiving computer.”). At that point, the video file has necessarily already been recorded because it can be made available to another user upon request. Claim 1, however, relates to streaming audio and video material from a recording device on a user front end to a host back end, and *recording* audio and video material *on the host back end*. The streaming occurs as the audio and video material is being captured with the recording device. Liwerant has nothing to do with streaming in that fashion, and claim 1 is therefore not obvious in view of Liwerant.

Liwerant also fails to teach or suggest “recording the audio and video material on the host back end and storing the recorded audio and video material as a complete video file.” As explained above, all recording in the Liwerant system is done on the user’s computer, not on a host back end. The user records video locally, saves it as a file on his or her hard drive, and then uploads the file to a hosting site. *See, e.g.*, Liwerant ¶ 77 (“The computer system 10 can operate software that can manipulate video segment files. The computer system 10 can communicate with video sources, such a video cameras and video recording machines, if the user wishes to employ such sources.”), 82 (“The user begins by producing and/or recording a video segment on the hard disk of the computer 16 or within the temporary memory of a handheld device.”). The hosting site stores the uploaded video file; it does not record audio and video material that is

streamed. Indeed, no recording at all takes place at the hosting site in Liwerant because the video file received from the user has already been recorded. Claim 1 is therefore not obvious in view of Liwerant for that reason as well.

Although of different scope than claim 1, amended independent claims 64, 80, 92, 104, and 105 are patentable over Liwerant for at least the same reasons as claim 1.

Claim 64 recites “a delivery module that delivers user interface code over the Internet for use in an Internet browser, wherein the user interface code is executed through the Internet browser at the user front end and initiates the streaming of audio and video material from a recording device on the user front end to the host back end over the Internet, the audio and video material streamed as it is being captured with the recording device, not as a complete video file on the user front end” and “one or more recording modules that record the audio and video material on the host back end and store the recorded audio and video material as a complete video file.”

Claim 80 recites “streaming audio and video material from a recording device on the user front end to the host back end over the Internet, wherein the streaming is initiated by the user interface code, the audio and video material is streamed as it is being captured with the recording device, not as a complete video file on the user front end, and the audio and video material is recorded on the host back end and stored as a complete video file.”

Claim 92 recites “a streaming module that streams audio and video material from a recording device on the user front end to the host back end over the Internet, wherein the streaming is initiated by the user interface code, the audio and video material is streamed as it is being captured with the recording device, not as a complete video file on the user front end, and the audio and video material is recorded on the host back end and stored as a complete video

file.”

Claim 104 recites “delivering user interface code over the Wi-Fi connection, wherein the user interface code is executed through the user front end and initiates the streaming of audio and video material from a recording device on the user front end to the host back end over the Wi-Fi connection, the audio and video material streamed as it is being captured with the recording device, not as a complete video file on the user front end” and “recording the audio and video material on the host back end and storing the recorded audio and video material as a complete video file.”

Claim 105 recites “delivering user interface code over the wireless mobile connection, wherein the user interface code is executed through the user front end and initiates the streaming of audio and video material from a recording device on the user front end to the host back end over the wireless mobile connection, the audio and video material streamed as it is being captured with the recording device, not as a complete video file on the user front end” and “recording the audio and video material on the host back end and storing the recorded audio and video material as a complete video file.”

These features, for example, are not taught or suggested by Liwerant. Independent claims 1, 64, 80, 92, 104, and 105, and all corresponding dependent claims, are therefore allowable over Liwerant for at least the reasons noted above.



**CONCLUSION**

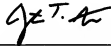
For all the reasons set forth above, an indication of allowance of all claims is solicited. In the event any outstanding issues remain in the Application, the Examiner is more than welcome to telephone the undersigned counsel to resolve any such issues in the interest of expediency and to further place the application in condition for allowance.

It is believed that all necessary fees are being charged for filing this Response. However, the Director is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicant also authorizes the Director to charge all required fees, fees under 37 C.F.R. § 1.17, or all required extension of time fees, to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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